



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services.	R.12-12-011 (Filed December 20, 2012)
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**MOTION OF UBER TECHNOLOGIES, INC. FOR RECONSIDERATION TO THE  
FULL COMMISSION OF THE JANUARY 27, 2020 ALJ RULING**

Lisa P. Tse  
UBER TECHNOLOGIES, INC.  
1455 Market Street, 4th Floor  
San Francisco, California 94103  
Email: ltse@uber.com

Vidhya Prabhakaran  
Tahiya Sultan  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111-6533  
Tel. (415) 276-6500  
Fax. (415) 276-6599  
Email: vidhyaprabhakaran@dwt.com  
Email: tahiyaasultan@dwt.com

Attorneys for Uber Technologies, Inc.

January 30, 2020

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services.	R.12-12-011 (Filed December 20, 2012)
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FULL COMMISSION OF THE JANUARY 27, 2020 ALJ RULING**

Uber takes this unusual step of filing this interlocutory appeal of the January 27, 2020 *Administrative Law Judge’s Ruling Denying Motion of Uber Technologies, Inc. for Reconsideration of the December 19, 2019 ALJ Ruling Ordering Uber Technologies, Inc. to File and Serve Its US Safety Report* (“January Denial”) to the full Commission given the significant harm to victims of sexual assault and sexual misconduct, Uber employees, and the public interest that would occur if the December Ruling is allowed to take effect.<sup>1</sup>

In December, Uber undertook a first-of-its-kind transparency effort of voluntarily issuing a “Safety Report,” a comprehensive publication that shares details on Uber’s safety progress, its processes, and national aggregate and anonymized data related to the most serious safety incidents reported in connection with its platform.<sup>2</sup> One of its stated intentions in producing this report was to make an impact beyond Uber and encourage others to more transparently share

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<sup>1</sup> Uber Technologies, Inc. (“Uber”) respectfully submits the following motion for reconsideration to the full Commission of the January Denial pursuant to Rule 11.1(b) of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure. Concurrently with this motion, Uber is also filing a motion for the Commission to stay the requirements in the December 19, 2019 *ALJ Ruling Ordering Uber Technologies, Inc. to File and Serve Its US Safety Report* (“December Ruling”) that Uber provide individual incident information in response to Questions 2.4.1 – 2.4.4 and employee information in response to Questions 1.1-1.2 while it considers this motion for reconsideration.

<sup>2</sup> Uber attached its Safety Report as Attachment A to its January 10, 2020 Motion for Reconsideration of the December Ruling (“January Motion for Reconsideration”). The Safety Report is also available at: <https://www.uber.com/us/en/about/reports/us-safety-report/>.

best practices that can help make everyone safer. The December Ruling, however, hinders that goal. The Administrative Law Judge's demand for a wide swath of data -- some of which is highly sensitive and with no apparent nexus to the work of the Administrative Law Judge in the Rulemaking -- penalizes Uber for efforts that the Commission should instead be incentivizing the rest of the TNC industry to follow. The December Ruling creates a chilling effect on positive corporate citizenship: no other TNC, or any other company in any industry contemplating taking a proactive step on an issue with significant social impact, will voluntarily provide helpful data and information because the Commission's actions send the message that "no good deed should go unpunished."

In two pages, the Administrative Law Judge denied Uber's motion to reconsider the December Ruling. The Administrative Law Judge's only "concession" was to order Uber to file the specific details of every incident of sexual assault and sexual misconduct that allegedly occurred in connection with an Uber-facilitated trip in California in 2017, 2018, and 2019 under seal. Presumably, the January Denial sought to cure the portion of the December Ruling that most clearly shocked the conscience -- the fact that the December Ruling required Uber to *publicly* "[i]dentify (i.e., provide the person's full name and contact information) each witness to each incident" and thus produce and publish victim names and contact information.<sup>3</sup>

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<sup>3</sup> The January Denial criticizes Uber for not filing a motion for leave to file individual incident information under seal. Uber should not be compelled to produce such sensitive information to a non-law enforcement agency. Further, motions to file under seal are done in conjunction with and at the time of providing the confidential information -- it would have been procedurally deficient under the Commission's own rules to attempt to file a preemptive motion. Finally, the January Denial ignores that there is no guarantee a motion will be granted, responses still must be served on an almost 300-person service list, that standard Commission practice allows parties access to confidential information filed under seal through an NDA, and the very real risk that the Commission may seek to retroactively publicize this information as it is currently contemplating with TNCs' Annual Report information in this very proceeding.

However, the January Denial fails to respond to the threshold and most important issue raised in Uber's January Motion for Reconsideration: the December Ruling does not articulate any legitimate regulatory purpose for demanding in a quasi-legislative proceeding specific incident information or the disclosure of the name and contact information for every Uber employee who drafted the Safety Report. And the January Denial likewise fails in this regard. The request is simply unnecessary in aiding the Commission's investigatory and enforcement powers given the comprehensive and detailed information already provided by Uber to the Commission in its Annual Report.

Uber applauds and accepts both the Administrative Law Judge and the Commission's interest in ensuring safety. For that reason, Uber is responding to the Administrative Law Judge's various questions about data and complaint verification, policies and standards regarding the investigation of sexual assault and sexual misconduct complaints, the organization structure of Uber's safety team, and instructions to drivers. Uber hopes that the Commission will require *other* TNCs -- not just Uber as it has done so far -- to respond to similar targeted questions and ask all stakeholders for their input into establishing best practices in these areas. Furthermore, Uber will continue to facilitate responses to inquiries into Uber's specific practices and procedures, including what Uber describes in its Safety Report and the concurrent response to the December Ruling, by making the appropriate and knowledgeable business personnel available to meet with Commission staff.

However, without providing any explanation for how or why the Commission will use specific incident information or employee contact information, the December Ruling raises serious questions about whether its demand for this highly sensitive information exceeds the Commission's jurisdiction and/or is contrary to state and federal laws that protect the rights of

the individuals whose information would be provided by Uber to the Commission without their consent and Uber's rights. Furthermore, Uber does not have the opportunity to present a possible alternative to meet whatever unarticulated regulatory purpose the demand for individual incident information and employee contact information was ostensibly designed, to the extent that there is any such legitimate regulatory purpose, that would not result in significant and potentially irreparable harm to victims or employees.

The January Denial fails to address any of the other substantial concerns Uber raised in its original Motion for Reconsideration filed on January 10, 2020. It ignores letters supporting Uber's position<sup>4</sup> submitted by some of the leading experts in the sexual violence prevention space including:

1. The Rape, Abuse & Incest National Network;
2. The California Coalition Against Sexual Assault;
3. The Pennsylvania Coalition Against Rape and National Sexual Violence Resource Center; and
4. The National Network to End Domestic Violence.

For that reason, it is necessary that this motion for reconsideration to the full Commission reiterates the concerns that Uber attempted to raise first with the Administrative Law Judge to no avail.

Most importantly, the January Denial ignores the need for properly-conducted investigations for sexual assault incidents. The Commission is not a law enforcement agency that is trained to handle and investigate sexual assault reports, and the Commission must not allow untrained individuals to conduct investigations into individual incidents of sexual assault. Even worse, the January denial creates the possibility of potential subsequent stakeholder investigation because it orders responses to be served on an almost 300-person service list. The

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<sup>4</sup> See Attachment A.

December Ruling specifically invites stakeholder comment on all aspects of Uber's response, including individual incident information. Improperly conducted investigations create very real risks of re-victimizing survivors, compromising any active law enforcement investigations, and negatively affecting criminal prosecutions.

For these reasons and the reasons described herein, the full Commission should revoke the December Ruling and overrule the January Denial. The Assigned Commissioner or the Administrative Law Judge should issue a new ruling to *all* TNCs and stakeholders requesting comment on some of the various topics raised in the Ruling, such as data and complaint verification processes (not individual complaint information), policies and standards regarding the investigation of sexual assault and sexual misconduct complaints, TNC safety teams, and TNC instructions to participating drivers. The Commission may also consider formally requiring all TNCs to publicly issue a Safety Report in the manner that Uber has done.

#### **I. UBER'S U.S. SAFETY REPORT**

Uber's U.S. Safety Report, the first comprehensive publication of its kind to be issued by a company, shares details on Uber's safety progress, its processes, and disclosure of the top-line aggregate number of the most serious safety incidents occurring on its platform. Uber issued this Safety Report voluntarily in order to bring awareness to critical safety issues. Uber is the only TNC to publish such a report and the ALJ's Rulings in this proceeding will disincentivize other TNCs from publishing a similar report. The Safety Report represents the latest in a series of actions Uber has taken after consultation with experts in the gender-based violence field to continually improve the safety of its platform for all who use it. Publishing national aggregate and anonymized data and comprehensive information contained in the Safety Report is intended to help Uber and its regulators develop best practices that will prevent serious safety incidents from occurring in the first place.

The report includes national aggregate and anonymized data from 2017 and 2018. It includes sexual assault incidents reported by both drivers and riders, as well as fatal physical assaults and fatal motor vehicle crashes that occurred in connection with the Uber platform in the United States, regardless of who the victim or accused party was. Uber's report provides hard data to drive accountability and improve safety for Uber and the entire TNC industry.

## **II. THE DECEMBER RULING DOES NOT ARTICULATE A LEGITIMATE REGULATORY PURPOSE FOR DEMANDING HIGHLY-SENSITIVE INFORMATION AND MAY EXCEED COMMISSION JURISDICTION AND BE CONTRARY TO LAW**

The December Ruling fails to articulate any regulatory purpose for demanding detailed information about alleged incidents of sexual assault and sexual misconduct in this quasi-legislative rulemaking proceeding. Accordingly, by summarily ordering Uber to produce the identities of potential victims of sexual assault, their stories, and related information, the December Ruling reached beyond the scope of the Commission's regulatory interest and failed to consider the rights of those individuals, Uber's rights, or the potential that the Administrative Law Judge's order conflicts with federal and state laws.

The Commission is not a law enforcement agency tasked with handling and investigating sexual assault incidents. That authority has been placed with other agencies and investigators, underscoring the unprecedented nature of the December Ruling: it wrongly gives the Commission access to information it should not have, and that Uber shares with law enforcement agencies that first obtain the requisite legal authority. The government is not permitted to assemble a cache of information about its citizens without authority.<sup>5</sup>

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<sup>5</sup> See, e.g., *White v. Davis*, 13 Cal. 3d 757, 773–74 (1975) (California constitutional privacy protections were designed to curb the “accelerating encroachment on personal freedom and security caused by increased surveillance and data collection activity”).

Riders had no expectation that by doing business with Uber and providing information regarding sexual misconduct or assaults, their information would be shared with non-law enforcement government officials. On the contrary, under Uber's Privacy policy, riders expect Uber to safeguard their personal information. Moreover, the United States Supreme Court has expressly held that the Fourth Amendment prevents a state agency from making an inspection demand insufficiently limited in scope, relevant in purpose, and specific in directive.<sup>6</sup>

**III. THE COMMISSION SHOULD NOT REQUIRE UBER TO DISCLOSE INDIVIDUAL SEXUAL ASSAULT INCIDENT DETAILS, EVEN CONFIDENTIALLY, OR ALLOW STAKEHOLDERS TO COMMENT ON INDIVIDUAL SEXUAL ASSAULT INCIDENTS.**

**A. Individual Sexual Assault Incidents Should Not Be Subject to Stakeholder Comments**

As written, the December Ruling requires the **public** disclosure of sexual assault information, including “the date, time, and place of each incident,” “a detailed description of the circumstances of each incident,” and the “full name and contact information” of “each witness to each incident.”<sup>7</sup> While the January Denial belatedly allows this information to be filed under seal, filing under seal does not solve the problem: it still allows stakeholders to comment on individual incident information under typical Commission procedure. The January Denial ignores this concern and offers no attempt to mitigate the significant harm to victims that would occur if this information were shared with stakeholders. There is simply no reason other stakeholders need access to this extraordinarily sensitive individual incident information from Uber.

Stakeholder review of individual incident information, even kept confidentially, (especially, and incredibly, the names and contact information of victims who were witnesses to

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<sup>6</sup> See *Patel v. City of Los Angeles*, 738 F.3d 1058, 1064 (9th Cir. 2013), *aff'd* *City of Los Angeles v. Patel*, 135 S. Ct. 2443 (2015).

<sup>7</sup> Ruling at 2-3, Question 2.4.



each incident) invites scrutiny into potentially traumatic and serious episodes for these victims. It is contrary to the provisions of Penal Code 293 (a) and (b), which requires law enforcement agencies to document in writing that a victim making a report of a sexual offense may request their name not become a matter of public record. The January Denial does not eliminate a victim's name becoming a part of the official Commission evidentiary record for this quasi-legislative proceeding even if the name is kept under seal.

**B. Requiring This Information to Allow for Any Additional Investigation Conducted by Commission Staff Contravenes Victims' Rights and May Cause Survivors Additional Trauma.**

Although neither the December Ruling nor the January Denial provide a rationale for why the Commission needs individual incident information in this quasi-legislative rulemaking proceeding, the Commission has stated publicly that “[p]roviding the [Commission] with this information allows staff the means to conduct follow-up investigations into riders who say they are victims of sexual assaults or misconduct.”<sup>8</sup> Yet, as discussed above, this type of investigation is the purview of law enforcement agencies.

Despite a robust discussion in Uber's Motion for Reconsideration on the need for specially-trained individuals to conduct any appropriate investigations, the December Ruling and the January Denial also ignore the fact that law enforcement agencies already exist and are specifically equipped to conduct these sensitive investigations or follow-ups. They also fail to address whether the Commission is an appropriate agency to engage in such investigations and

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<sup>8</sup> See Carolyn Said, *California to Uber, Lyft: Why aren't drivers employees?*, San Francisco Chronicle (December 20, 2019), available at: <https://www.sfchronicle.com/business/article/California-to-Uber-Lyft-Why-aren-t-drivers-14922008.php>.

how Commission staff, who apparently will be tasked with investigating these incidents, will develop the specific and specialized training necessary to question survivors.<sup>9</sup>

Additionally, California Penal Code section 13898(a) provides for the creation of a county-level “interagency sexual assault response team (SART) program for the purpose of providing a forum for interagency cooperation and coordination, to assess and make recommendations for the improvement in the local sexual assault intervention system, and to facilitate improved communication and working relationships to effectively address the problem of sexual assault in California.” Among the purposes of such a program is to evaluate the effectiveness of protocols and systems and plan effective prevention strategies. Section 13898.1 sets out the agencies, public and private, that may participate in SARTs, including law enforcement agencies, county district attorneys’ offices, rape crises centers, and county mental health services departments -- the Commission is not one of these agencies.

Moreover, the January Denial further ignores the fact that a Commission investigation into these reported incidents would unnecessarily subject individuals to potentially inappropriate and harmful allegations of sexual assault and sexual misconduct without the protections afforded by the Constitution and our criminal justice system: due process and an investigation by law enforcement requiring probable cause and ultimately proof beyond a reasonable doubt.

Further, survivors must have the right to control the sharing of their experiences. The December Ruling confirmed by the January Denial would require Uber to provide the

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<sup>9</sup> For example, California Penal Code section 680.2 mandates that all local law enforcement agencies develop a card that explains in a clear language the rights of sexual assault victims, and makes this card accessible to each provider in its jurisdiction responsible for medical evidentiary or physical examinations arising out of sexual assault. Cal. Pen. Code, § 680.2, subd. (a); (d). The California OAG has developed model cards which can be used by law enforcement to inform victims of their rights; including whether to report the matter or participate in prosecution.

Commission with the names of sexual assault survivors *without their consent*.<sup>10</sup> Numerous resource guides for sexual assault survivors emphasize the need to allow survivors to make informed decisions as to whether to report an incident to law enforcement (or a regulatory agency like the Commission), and how they wish to do it. Some of the individual incidents that were aggregated in the Safety Report may include incidents that the victim did not report herself or himself – confronting an unwilling or unsuspecting victim with past trauma may only serve to exacerbate the trauma.

For example, a victim’s agency in deciding whether to participate in criminal prosecution is cited to in Penal Code section 13823.95(b)(1), providing that a victim who seeks a medical evidentiary examination in connection with a sexual assault “shall not be required to participate or to agree to participate in the criminal justice system, either prior to the examination or at any other time.” As a result, naming the victim compromises their privacy and potentially subjects them to an investigation with unspecified aims and unclear jurisdiction by the Commission, which would further strip them of their agency and therefore constitute further re-victimization.

### **C. Requiring This Extremely Sensitive Information to Be Filed with the Commission Exposes It to Possible Disclosure**

The more widely this extremely sensitive information is disseminated within the Commission and possibly to stakeholders, the higher likelihood of possible accidental disclosure or disclosure as a result of hacking with devastating consequences to survivors. This risk is very real and could subject survivors to potential harassment from the attacker, friends, or family. The Commission itself has accidentally disclosed confidential information, and the risk of hacking such sensitive and confidential information from the Commission is a very clear and

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<sup>10</sup> The December Ruling directs Uber to “[i]dentify (i.e., provide the person’s full name and contact information) *each witness* to each incident”, which necessarily includes victims. December Ruling, at 3 (Question 2.4.3) (emphasis added).

present threat.<sup>11</sup> Any benefit that the Commission may perceive associated with having Uber file this extremely sensitive information with the Commission under seal is outweighed by the devastating and potentially life-threatening consequences associated with the possible disclosure of this confidential information.

**IV. THE COMMISSION SHOULD NOT REQUIRE PUBLIC DISCLOSURE OR STAKEHOLDER COMMENT ON INDIVIDUALS WHO WORK ON THE UBER SAFETY REPORT OR THE UBER SAFETY TEAM.**

In addition, the December Ruling requires the public disclosure of various information on the individuals who worked on the Uber Safety Report or work on the Uber Safety Team.<sup>12</sup> The January Denial specifically requires that this information should not be provided under seal.<sup>13</sup> Furthermore, stakeholders are invited to comment on this information that Uber is required to provide the Commission pursuant to the December Ruling. The Commission should find that the January Denial's requirement to provide information on individual Uber employees and allow stakeholder comment on such information to be inappropriate and rescind the December Ruling and overrule the January Denial.

Here again, the December Ruling fails to articulate a regulatory purpose for publicly disclosing and having stakeholders comment on their names, titles, contact information, and how these employees performed their jobs related to the drafting of the Safety Report. Individuals

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<sup>11</sup> See, e.g., Commission accidental disclosure of confidential intrastate revenue figures of telecommunication carriers operating in California in a May 29, 2012 email by a Commission Division staff person to parties on the service list of Resolution T-17358. See also Ian Duncan, *Baltimore city government computer network hit by ransomware attack*, *The Baltimore Sun*, May 7, 2019, available at: <https://www.baltimoresun.com/politics/bs-md-ci-it-outage-20190507-story.html>; Zak Doffman, *Cyberattack On LAPD Confirmed: Data Breach Impacts Thousands of Officers*, *Forbes* (July 30, 2019), available at <https://www.forbes.com/sites/zakdoffman/2019/07/30/lapd-cyberattackpolice-department-confirms-it-has-been-hacked/#233b86d14bec>; CISO Mag; *New Orleans Declares State of Emergency After Ransomware Attack*, *CISO MAG* (December 17, 2019), available at: <https://www.cisomag.com/new-orleans-declares-state-of-emergency-after-ransomware-attack/>.

<sup>12</sup> See December Ruling, at 2 and 4, Questions 1.1-1.4 and 4, Question 4.1.1.

<sup>13</sup> January Denial at 3.

working on the Safety Report and on Uber's Safety Team have a reasonable expectation of privacy. Uber employees should not be faced with the possibility of being targeted with inquiries about information they received from third parties, public scrutiny, and disclosure or any other kind of exposure or harm for the mere fact of performing the activities for which they were hired by their employer. Moreover, Uber has a dedicated team that is responsible for responding to all of the Commission's requests and this team has a demonstrated record of arranging for employees most knowledgeable about areas of the Commission's interest to present that information. With this well-established process in place, there is simply no reason for the public disclosure of employee information that is contemplated by the ALJ Ruling. Therefore, in the absence of any defined purpose for requesting the employees' names, titles, contact information, and how these employees performed their jobs related to the drafting of the Safety Report, the greater interest to be protected should undoubtedly be the employees' right to privacy.

Uber will also be harmed by the disclosure since its ability to recruit and retain employees will be harmed if rank-and-file employees risk public disclosure of their personal information by virtue of working on future Safety Reports or on Uber's Safety Team. Finding qualified and caring individuals to assist with the important work associated with the Safety Report and on Uber's Safety Team is difficult and these individuals should not be faced with the possibility of public scrutiny and disclosure.

For all these reasons, the Commission should not invite stakeholder comment on individual incident information or require that Uber disclose the individuals who worked on the Uber Report or work on Uber's Safety Team.

**V. THE COMMISSION SHOULD ISSUE A RULING WITH QUESTIONS TO WHICH ALL TNCs MUST RESPOND.**

Uber voluntarily compiled and issued its Safety Report to take a new approach to issues like sexual violence, to drive accountability, and improve safety for Uber and the entire industry. The entire TNC industry faces the same safety challenges inherent to this space. If the Commission is truly interested in safety across the industry, it should issue a ruling requiring all TNCs to respond and engage on the issues raised by the Safety Report.

By focusing solely on Uber, the December Ruling as confirmed by the January Denial chooses to single out the very company that voluntarily came forward to shine a light on these issues. Similarly, it is unclear how the requirement in the December Ruling and January Denial for individual incident information (rather than aggregated and anonymized data) will assist the Commission in making rules and best practices to make the entire industry safer. Instead, the Commission should take the opportunity afforded by Uber's release of its Safety Report and the public attention that release has brought to focus all stakeholders on the issues discussed in the Safety Report at an industry-wide level and to develop innovative new approaches that will raise the bar on safety in ridesharing. All stakeholders must raise the bar together – including the Commission.

Accordingly, the Commission should rescind the Uber-focused Ruling and instead issue a different ruling that focuses on what all stakeholders, including the Commission itself, can do to improve safety going forward in the TNC industry. Specifically, the Commission should issue a new ruling to all TNCs and stakeholders requesting comment on some of the various topics raised in the Ruling, including data and complaint verification processes, investigation processes of sexual assault and sexual misconduct complaints, TNC safety teams, and TNC instructions to participating drivers. The Commission may also consider formally requiring all TNCs to

publicly issue a Safety Report in the manner that Uber has done. Importantly, any new ruling should not require disclosure to the public or the Commission of any individual incident information related to allegations of sexual assault or sexual misconduct on TNC-facilitated trips or employee information – whether publicly or confidentially.

January 30, 2020

Respectfully submitted,

/s/

Vidhya Prabhakaran  
Tahiya Sultan  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111-6533  
Tel. (415) 276-6500  
Fax. (415) 276-6599  
Email: [vidhyaprabhakaran@dwt.com](mailto:vidhyaprabhakaran@dwt.com)  
Email: [tahiyasultan@dwt.com](mailto:tahiyasultan@dwt.com)

Attorneys for Uber Technologies, Inc.

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Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services.	R.12-12-011 (Filed December 20, 2012)
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**[PROPOSED] COMMISSION ORDER GRANTING MOTION OF UBER  
TECHNOLOGIES, INC. FOR RECONSIDERATION TO THE FULL COMMISSION OF  
THE JANUARY 27, 2020 ALJ RULING**

On January 30, 2020, Uber Technologies, Inc. (“Uber”) filed a motion for reconsideration to the full Commission of the January 27, 2020 *Administrative Law Judge’s Ruling Denying Motion of Uber Technologies, Inc. for Reconsideration of the December 19, 2019 ALJ Ruling Ordering Uber Technologies, Inc. to File and Serve Its US Safety Report*. No opposition to this Motion has been submitted and the time for submission of such opposition has expired. No hearing on the Motion is necessary.

Good cause having been shown, and no opposition to the Motion having been submitted,

Therefore, **IT IS RULED** that:

1. The request of Uber is granted.

Dated \_\_\_\_\_, 2020 at San Francisco, California.



## **ATTACHMENT A**

January 17, 2020

President Marybel Batjer and Commissioners  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Dear President Batjer and the Commissioners of the California Public Utilities Commission,

I write to you on behalf of the California Coalition Against Sexual Assault (CALCASA), the statewide coalition representing the needs of sexual assault survivors and the 84 rape crisis center programs in California, and a national advocacy organization dedicated to ending sexual violence wherever it may occur. We are sharing our concerns about Section 2.4 of the Administrative Law Judge's Ruling Ordering Uber Technologies, Inc. to File and Serve Its U.S. Safety Report for 2017-2018 and to Answer Questions Regarding Alleged Sexual Assault And Sexual Misconduct Incidents issued by Judge Robert M. Mason III on December 19, 2019 (the "Safety Report Ruling"). Along with several of our national partners in sexual violence prevention, we respectfully request that the Safety Report Ruling be modified to remove or rescind Section 2.4 of the ruling, so as not to require undue disclosure of victim information or information about sexual assaults.

Section 2.4 and its subparts of the Safety Report Ruling would require, for each incident of sexual assault and sexual misconduct that occurred in California in 2017, 2018, and 2019, that Uber:

- State the date, time, and place of each incident;
- Give a detailed description of the circumstances of each incident;
- Identify (i.e., provide the person's full name and contact information) each witness to each incident; and
- Identify (i.e., provide the person's full name, job title, contact information, and job responsibilities) each person to whom each incident was reported.

Section 2.4 would require a sweeping disclosure of the personal details of victims of sexual assault, who are generally the "witnesses" reporting the incidents, including their personally identifying information. It would share painful details about the assault, and other information (like time and place of the incident) that, even if the victims' names were withheld, could still identify and endanger survivors of sexual assault.

The release of information under Section 2.4 could jeopardize the safety and well-being of survivors who have already suffered. For survivors of sexual violence, privacy and confidentiality of their personal information is more than just an expectation; it is a critical matter of personal safety and security. If a survivor is known to have reported a sexual assault, the victim could be subjected to public humiliation, retaliation, rejection by family and friends, and most alarmingly, threats of further violence and harassment by the perpetrator. Survivors of sexual assault have a right to expect that their private information will not be used in any way they did not consent to, and that any communications or information regarding their sexual assault will be kept confidential unless they themselves choose to go public. Unfortunately, Section 2.4 proposes to undercut victim privacy and place victims in danger.

In the 1970's, nearly every U.S. jurisdiction adopted some form of Rape shield statute, which include laws that prohibit publication of the identity of alleged rape victims. These laws were adopted throughout the nation as well as in various countries, out of a recognition that sexual assault survivors are entitled to protections which include

the right to privacy. Section 2.4 is a direct violation of the hard-earned privacy rights to which survivors are entitled. Disclosing personal information without their consent further traumatizes individuals who have already had their control and bodily autonomy wrenched away from them. Survivors may feel even more violated when their personally identifying information and details about assaults are made publicly available, or even shared beyond whomever first took their reports. Only they can choose to tell their stories or give informed consent for details to be shared. The experiences of survivors are theirs alone, and they should be in control over their privacy and who knows their stories. Rideshare providers, transportation companies, and government regulators like CPUC have a responsibility to safeguard the privacy of victims of sexual assault, stalking, and domestic violence to the greatest extent possible. Taking away the control of victims' stories will cause further harm to the individuals the CPUC seeks to protect.

Furthermore, releasing information under Section 2.4 would have a devastating effect on future sexual assault reports. Many victims will be unwilling to report to Uber or any other company if they fear their identities or details of their stories could be disclosed to the public. If survivors are afraid to make reports, Uber cannot remove perpetrators from their platform and cannot take steps to protect their customers and drivers. This would likely allow perpetrators to continue to harm others, and will leave survivors in the dark. We already know victims avoid reporting to law enforcement or campus officials, mainly due to privacy concerns, and that mandatory reporting policies can have a chilling effect. Even the perception of lack of privacy can prevent victims from reaching out for help, and as a result, it is clear to us that survivors themselves should retain control of whether and to whom to report. If their information is now revealed to CPUC and, by extension, the public, this will cause other victims to think twice about making reports. The risk that victims would no longer feel safe reporting assaults to Uber is significant, and if Section 2.4 is enforced, the chilling effect on reporting incidents of sexual assault will compromise, rather than promote public safety.

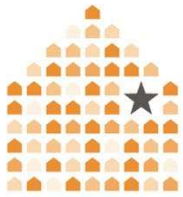
CALCASA is committed to building policies and procedures that support survivors and developing systems in which we are able to prevent sexual assault from occurring in the first place. We need companies such as Uber to share statistical information about sexual violence in order to develop procedures that will keep people safe. The Safety Report issued by Uber on December 5 was a good first step. While well intended, the CPUC request for information under Section 2.4 inadvertently jeopardizes,, rather than promotes public safety. CALCASA is interested in working with CPUC to develop systems that will promote our shared desire to prevent sexual violence.

Thank you for considering these comments. We encourage CPUC's careful attention to the unique concerns of survivors of sexual violence as it considers Section 2.4 of the Safety Report Ruling. Rideshare users and drivers will be in greater danger if victim information is shared without their consent. If you have any further questions, please contact our Senior Policy Associate, John L. Finley at [jfinley@calcasa.org](mailto:jfinley@calcasa.org).

Sincerely,



Sandra Henriquez  
Chief Executive Officer  
California Coalition Against Sexual Assault



**NNEDV**  
NATIONAL NETWORK  
TO END DOMESTIC  
VIOLENCE

1325 Massachusetts Ave NW  
7th Floor  
Washington, DC 20005-4188

**NNEDV.org**  
phone: 202.543.5566  
fax: 202.543.5626

January 14, 2020

President Marybel Batjer and Commissioners  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, California 94102

Dear President Batjer and Commissioners of the California Public Utilities Commission:

On behalf of the National Network to End Domestic Violence (NNEDV), an advocacy organization that represents 56 state and territorial domestic violence coalitions, their 2,000 member programs, and the millions of individuals and families across America affected by domestic and sexual violence, we are writing to express concerns about Section 2.4 of the *Administrative Law Judge's Ruling Ordering Uber Technologies, Inc. to File and Serve Its U.S. Safety Report for 2017-2018 and to Answer Questions Regarding Alleged Sexual Assault And Sexual Misconduct Incidents* issued by Judge Robert M. Mason III on December 19, 2019 (the "Safety Report Ruling"). As detailed below, we respectfully request that the Safety Report Ruling be modified to remove or rescind Section 2.4 of the ruling, so as not to require disclosure of victim information or information about sexual assaults.

Section 2.4 and its subparts of the Safety Report Ruling would require, for each incident of sexual assault and sexual misconduct that occurred in California in 2017, 2018, and 2019, that Uber:

- State the date, time, and place of each incident;
- Give a detailed description of the circumstances of each incident;
- Identify (i.e., provide the person's full name and contact information) each witness to each incident; and
- Identify (i.e., provide the person's full name, job title, contact information, and job responsibilities) each person to whom each incident was reported.

Section 2.4 would thus require a sweeping disclosure of the personal details of victims of sexual assault, who are generally the "witnesses" reporting the incidents, including their personally identifying information. It would share painful details about the assault, and other information (like time and place of the incident) that, even if the victims' names were withheld, could be identifying or endanger victims.

The [Safety Net Project](#) at NNEDV is a national expert on survivor confidentiality funded by the U.S. Department of Justice to provide training and consultation about victim confidentiality and privacy since 2004. From our extensive work we know that maintaining the confidentiality of victim information is essential to protect victim safety, prevent retraumatization, and encourage other victims to come forward with reports. The laudable efforts by CPUC to improve public safety would have the opposite effect if any victim information was released under Section 2.4.

### **Safety and Privacy**

The release of information under Section 2.4 could jeopardize the safety and well-being of victims who have already suffered. For victims of domestic and sexual violence, privacy and confidentiality of their

personal information is more than just an expectation; it is a matter of personal safety and security. If a victim is known to have reported a sexual assault, the victim could be subjected to public humiliation, retaliation, rejection by family and friends, and stalking or threats by the perpetrator. As a result, most state laws have limits on the use of private victim information in the trial, court records, and media reporting. Victims have a right to expect that their private information will not become public fodder. Unfortunately, Section 2.4 proposes to undercut victim privacy and place victims in danger.

### **Trauma and Autonomy**

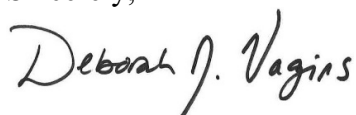
Disclosing victim information without their consent further traumatizes individuals who have already had their control and bodily autonomy wrenched away from them. Victims may feel even more violated when their personally identifying information and details about assaults are made publicly available, or even shared beyond whomever first took their reports. Only they can choose to tell their stories or give informed consent for details to be shared. The experiences of survivors are theirs alone; they should be in control over their privacy and who knows their stories. Rideshare providers, transportation companies, and government regulators like CPUC have a responsibility to safeguard the privacy of victims of domestic violence, sexual assault, and stalking to the greatest extent possible. Taking away the control of victims' stories will cause further harm to the individuals the CPUC seeks to protect.

### **Chilling Effect**

Releasing information under Section 2.4 would have a chilling effect on future sexual assault reports. Many victims will be unwilling to report to Uber if they fear their identities or details of their stories could be disclosed. If survivors are afraid to make reports, Uber cannot remove perpetrators from their platform and cannot take steps to protect their customers and drivers. This would likely allow perpetrators to continue to harm others. Surveys show victims avoid reporting to officials, such as law enforcement or campus officials, due to privacy concerns and that mandatory reporting policies can have a chilling effect. Even the perception of lack of privacy can prevent victims from reaching out for help. Victims also report that they should retain control of whether and to whom to report. If their information is now revealed to CPUC and, potentially, the public, this will cause other victims to think twice about making reports. The risk that victims would no longer feel safe reporting assaults to Uber is significant. If Section 2.4 is enforced, the chilling effect will compromise, rather than promote public safety.

We thank you for considering these comments. We encourage CPUC's careful attention to the unique concerns of survivors of domestic violence, sexual assault, and stalking as it considers whether to modify or rescind Section 2.4 of the Safety Report Ruling. Rideshare users and drivers will be in greater danger if victim information is shared without their consent. If you have any further questions, please contact NNEDV at [advocacy@nnedv.org](mailto:advocacy@nnedv.org).

Sincerely,



Deborah J. Vagins  
CEO and President  
National Network to End Domestic Violence

cc: Rulemaking 12-11-011 Service List



January 16, 2020

California Public Utilities Commission,

As CEO of the Pennsylvania Coalition Against Rape and National Sexual Violence Resource Center, I am writing to urge you to reconsider your recent request asking Uber to disclose the names, contact information, and other private and sensitive information of sexual assault victims. As leading national experts on sexual harassment, misconduct, and abuse and strategies for prevention, we are greatly concerned by your request. One of the most fundamental principles of our work is the importance of returning control and autonomy to victims, in as many ways as possible, following an assault or other severe boundary violation. This includes protecting their privacy and allowing them to make decisions about whether, when, and where to report incidents.

Over the past few years, we have worked closely with Uber and advised them on safety matters. Some have criticized them for not automatically reporting all incidences of sexual assault to the police for investigation. We, along with many other organizations in our field, have strongly advised against this. Victims of sexual assault should always be given the option of reporting to the police or other regulatory bodies if they choose. Many opt to do so, and others do not. It is vital that it is their choice – and hopefully an informed choice. One reason this is so imperative is because for too many victims, the process of reporting or moving forward with the criminal justice system is more traumatizing than the original assault.

As experts, we know that sexual assault happens in every setting and context – on college campuses, in faith communities, on sports teams, in workplaces, in families, and yes – also in rideshares. The fact that sexual assaults happen within the context of Uber rides is not surprising or unusual, unfortunately. What is very unusual, and unprecedented, is Uber's commitment to address these problems in many different ways, including sharing data on safety incidents experienced on their platform openly and publicly. We believe that sexual violence thrives in silence and secrecy. This is why it's so important that more companies and organizations share accurate data, while prioritizing the privacy of victims of sexual assault who chose not to report. These are necessary steps enabling us to turn the tide in how our country responds to survivors and to prevent further abuses.

Requiring Uber to share personal information of sexual assault victims would further violate people who have already been victimized, have a chilling effect on future victims reporting incidents, and discourage other companies from accurately tracking and sharing information about sexual abuse. I appreciate your attention to safety and commitment to helping reduce incidents of sexual assault in transportation and other industries. With this commitment in mind, we respectfully ask you to rethink this particular strategy, which has the potential of doing much harm.

Sincerely,

Karen L. Baker, LMSW  
PCAR/NSVRC CEO



January 17, 2020

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Dear Commissioners:

On behalf of RAINN, we are writing on a topic of great importance: the privacy and other needs of victims of sexual assault.

Specifically, we are reaching out to share RAINN's victim-centered and trauma-informed perspective on the California Public Utilities Commission's recent request that Uber publicly share the names and contact information of victims of the incidents summarized in the Uber US Safety Report in December 2019. RAINN strongly urges the commission to reconsider this request.

RAINN is the nation's largest anti-sexual violence organization. In the past 26 years, we have helped more than three million people affected by sexual violence through our diverse programs, including the National Sexual Assault Hotline, which RAINN created and operates in partnership with more than 1,000 local sexual assault service providers across the United States. In addition to our direct victim service work, RAINN works with a broad spectrum of client organizations — government agencies, companies (including Uber) across multiple industries, educational institutions, and other nonprofit organizations — to strengthen and deepen their sexual misconduct awareness, prevention, and response programming. Our goal in these partnerships is to create safer communities and ensure that survivors are treated appropriately and respectfully.

RAINN's victim services programs are designed to prioritize anonymity and confidentiality because victims are more likely to reach out for the help they need and deserve, **if they know that they can do so anonymously**. A large percentage of visitors to the National Sexual Assault Hotline tell us that they have not disclosed their experience to anyone, not even loved ones, before visiting the hotline. The only exceptions to our promise of confidentiality are in cases where state laws require the mandatory reporting of suspected abuse of children or vulnerable adults.

The most common reason that survivors give for not coming forward is that they want to keep their assault a private matter. It would be unconscionable for the state of California to take that decision out of their hands.

While we know that you have made this request with the best of intentions, and are looking for ways to protect the public from sexual violence, we believe that this request will do far more damage than good. With very limited exceptions to protect vulnerable populations, adults in the United States are legally entrusted to make their own decision about reporting an assault to a





government body. There is no justification for a government agency to make this decision for them, merely because the assault occurred in connection with a rideshare trip.

Another consideration is the trauma that victims experience. Trauma is not simply a one-time reaction to a single event; it is an individual and life-changing response that sometimes includes feelings of powerlessness, terror, and shame. Sharing victims' private information — especially their home address and contact information, as requested by the commission — without their consent would only compound the damage done by the assault itself.

We urge you to imagine for a moment that you are one of the victims of sexual violence counted in the Uber Safety Report, and the courage it would have taken to report a non-consensual sexual experience to a stranger — only to find out later that those details you provided, along with your name and contact information, have been shared with a far larger audience without your informed consent.

We respect the commission's efforts to ensure safety for the people of California, and we are grateful for your work. But we urge you to reconsider this request, which would have a devastating and chilling effect on victims and their willingness to reach out to get the support they need.

Thank you for your time and attention.

Sincerely,

Scott Berkowitz  
President

Clara Kim  
Vice President of Consulting Services